

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALI ABED,

Plaintiff,

v.

HEATHER EMINO, *et al.*,

Defendants.

Case No. 2:21-cv-01152-DJC-JDP (PS)

AMENDED FINDINGS AND
RECOMMENDATIONS¹

I previously screened plaintiff's complaint, notified her that it failed to state a claim, and recommended that the complaint be dismissed without leave to amend. ECF No. 3. I subsequently vacated the findings and recommendations and gave plaintiff thirty days to file an amended complaint. ECF No. 4. Plaintiff failed to timely file an amended complaint. Accordingly, on April 5, 2023, I ordered her to show cause within fourteen days why this action should not be dismissed for failure to prosecute and failure to state a claim. ECF No. 6. I notified her that if she wished to continue with this lawsuit, she would need to file an amended complaint. I also warned plaintiff that failure to comply with the April 5 order would result in a recommendation that this action be dismissed. *Id.*

¹ On June 13, 2023, I recommended that this action be dismissed for failure to prosecute, failure to comply with court orders, and failure to state a claim. ECF No. 7. I did not, however, state whether the dismissal should be with or without prejudice. This amended findings and recommendations specifies that the dismissal should be without prejudice.

1 The deadline has passed, and plaintiff has not filed an amended complaint or otherwise
2 responded to the April 5, 2023 order. Accordingly, it is hereby RECOMMENDED that:

3 1. This action be dismissed without prejudice for failure to prosecute, failure to comply
4 with court orders, and failure to state a claim for the reasons set forth in the December 22, 2022
5 order.

6 2. The Clerk of Court be directed to close the case.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, any party may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
12 objections shall be served and filed within fourteen days after service of the objections. The
13 parties are advised that failure to file objections within the specified time may waive the right to
14 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
15 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

16
17 IT IS SO ORDERED.

18
19 Dated: July 24, 2023


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE